

DRAFT MITIGATED NEGATIVE DECLARATION

The following proposed project has been reviewed, pursuant to the provisions of Resolution No. 3231, as amended, of the City Council of the City of Fremont for the purpose of determining the likelihood of significant adverse environmental impacts occurring as a result of project completion.

NAME OF PROJECT: Sabercat Creek Trail Restoration and Improvement Project

PROJECT NO.: PLN2008-00114

DESCRIPTION OF PROJECT: The City of Fremont is proposing to improve an existing public trail by completing an unfinished segment that will connect two dead ends, thus enabling users to continue along the trail in both directions. The City will also be stabilizing various portions of the creek's banks that have eroded over time and re-planting a stretch of the creek to remove non-native plant species that have moved into the area and replace them with native species.

LOCATION OF PROJECT: West of Interstate 680 near the intersection of Vista Del Mar and Paseo Padre Parkway; Fremont, CA

APNs: 513-0604-011-01; 513-0604-012-00; 513-0604-013-00; 513-0705-012-00; and 513-0709-006-00

GEOGRAPHIC LOCATION WITHIN CITY: Mission San Jose Planning Area

NAME OF AUTHORIZED AGENT OF APPLICANT: Stephen Kowalski, Associate Planner, City of Fremont
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MAILING ADDRESS OF APPLICANT OR AGENT: City of Fremont, P.O. Box 5006, Fremont, CA 94537-5006

TYPE OF ENTITLEMENTS SOUGHT: The project requires approval by the City Council of a Cost-Sharing Agreement between the City of Fremont and the Alameda County Flood Control and Water Conservation District to implement the Restoration and Improvement Plan.

EXPLANATION OF REASONS FOR THE FINDING: The proposed project will improve and make safer an existing public trail, while also helping to restore Sabercat Creek by implementing erosion and sedimentation control measures and removing invasive, non-native plant species and replacing them with native species. The proposed trail improvement and creek restoration project could have a potentially significant impact on plant and wildlife resources in the area, and on water quality through temporary exposure to erosion and sedimentation caused by the trail improvement activities themselves. However, mitigation measures listed in the Initial Study have been incorporated into the project which will reduce all potentially significant impacts to a less-than-significant level. All other potential effects of the project were found to be less than significant without the need for mitigation.

PUBLIC HEARINGS: The City Council is tentatively scheduled to consider the matter on September 1, 2009. The hearing will take place at the Council Chambers located at 3300 Capitol Avenue, Fremont, 94538. The complete environmental document is available for review at the Planning Division office located at 39550 Liberty Street, Fremont, 94538.

Any comments as to whether the draft mitigated negative declaration should become final or whether an EIR should be prepared for the project must be submitted within 30 days of the posting of this draft declaration. **The comment period begins July 13, 2009 and ends August 13, 2009.**

Posted within the Development Services Center on July 13, 2009.

Draft Mitigation Measures

Mitigation Measure #1: Prior to commencement of construction-related activities, a survey of the project area during the proper blooming period of January through April for the presence of Western Leatherwood shall be conducted to determine the presence/absence of the species. If Western Leatherwood is found to be present in the project construction area, a qualified botanist shall be retained to determine the proper measures necessary in the event the project impacts this species. Possible mitigation measures include avoidance of the plant, relocation of the trail around the plant's habitat, or collection and re-broadcasting of the plant's seeds to a nearby point down-bank from its present location.

Mitigation Measure #2: Vegetation/tree removals that could directly destroy nests, eggs, and immature birds, and would remove future nesting habitats for birds, including sensitive species such as migrating songbirds, shall only occur outside of the breeding season which typically occurs between January and July. In the event removals are proposed during nesting season, a qualified biologist shall survey the area of work to determine that there are no birds present. No removals shall be permitted if species are found to be present.

Mitigation Measure #3: Surveys of the bridge substructure shall be conducted in late February before construction begins and before the nesting season is under way to determine if any colonially nesting bird species are establishing nests on the bridge substructure. Impacts to birds nesting on the bridge substructure can be avoided either by performing construction activities outside of the nesting area or before or after the nesting season has begun, or by placing barriers to prevent nesting on the substructure before nests can become established.

Mitigation Measure #4: Pre-construction surveys for nesting raptors shall be conducted. Suitable nesting trees within the areas where project-related activities will occur shall be surveyed if removal of the trees is to occur after January and prior to July. Raptor surveys shall also occur if grading is to occur within a 100-foot distance of any known nesting site. Surveys shall be performed prior to January to identify any potential nesting trees prior to the birds laying eggs. Once eggs have been laid, a buffer must be established around the nest site and the site must be protected until August 1st or until the young have fledged, whichever occurs later.

Mitigation Measure #5: Pre-construction surveys for the Western Pond Turtle shall be conducted. If the Western Pond Turtle is found to be present in the Project area, consultation with CDFG shall be required and a qualified biologist shall be retained to determine how and where the turtle(s) shall be relocated.

Mitigation Measure #6: Pre-construction surveys for the San Francisco Dusky-footed Woodrat shall be conducted to determine if this species occupies any of the area which will be impacted by implementation of the Project. If this species is found to be present, a qualified biologist shall be retained to determine a program to relocate nests to nearby areas which will not be impacted by the Project.

Mitigation Measure #7: Final design and landscaping plans shall ensure soil stability features are incorporated into the design that may include revisions to the location of the proposed path improvements, type of improvements or materials between the path and creek, or landscape materials so as to limit long-term potential erosion or debris collecting and falling into the creekbed.

Mitigation Measure #8: Final construction drawings shall include stormwater pollution prevention plans (SWPPP) in accordance with Regional Water Quality Control Board best management practices to ensure stormwater runoff during the construction of the project does not cause erosion or transport sediment to sensitive areas. The SWPPP measures shall be in place on the construction site prior to commencement of work. The SWPPP at a minimum will include the following measures:

- Temporary measures, such as flow diversion, temporary ditches, hay bales, and silt fencing;

- Surface disturbance of soil and vegetation shall be kept to a minimum, and existing access and maintenance roads and/or paths shall be used wherever feasible;
- Any stockpiled soil shall be placed and sloped so that it will not be subject to accelerated erosion;
- Discharge of all project-related materials and fluids into the creek shall be avoided to the extent feasible by using hay bales or silt fences, construction berms or barriers around construction materials, or installing geofabric in the area of disturbance; and
- After ground-disturbing activities are complete, all graded or disturbed areas shall be covered with protective material such as mulch or re-seeded with native plant species. The plan shall include details regarding seeding material, fertilizer, and mulching.

Mitigation Measure #9: Final construction plans shall demonstrate sediment control measures for project work directly adjacent the creek channel that adequately relieve potential increases in turbidity conditions from accidental disturbance to the creek during and after construction. Control measure placement shall consider seasonal changes in creek flows for wet and dry seasons. Ideally, work will occur during the summer low-precipitation period when feasible. The control measures shall be installed as the first step in construction.

Mitigation Measure #10: Temporary dewatering of the channel during construction to address sediment or erosion control shall not be permitted without a detailed study by a qualified biologist and potential consideration by a qualified hydrologist as to potential effects on special status plants and animals both upstream and downstream of the project site. In the event there would be significant negative impacts to special status species of harming their reproductive cycle or eliminating an example of the species, dewatering shall not be permitted.

Notice of Determination to be sent to:

<input checked="" type="checkbox"/>	Posting of Notice	<input checked="" type="checkbox"/>	County Clerk
<input checked="" type="checkbox"/>	Mailed to owners of contiguous property	<input checked="" type="checkbox"/>	Clearinghouse
<input type="checkbox"/>	Publish notice		

IF THERE ARE ANY QUESTIONS OR COMMENTS, PLEASE CONTACT:

Stephen Kowalski	Associate Planner	(510) 494-4532
NAME	TITLE	PHONE NUMBER